

SENATE BILL No. 76

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-5.

Synopsis: Storm water fees. Provides that the special taxing district for a local unit's storm water system does not include property that: (1) does not discharge storm water into the unit's system; or (2) is served by another storm water system not owned or operated by the unit. Provides that after June 30, 2006, the unit's storm water board may not: (1) charge user fees; or (2) levy a special benefits tax; with respect to any property not served by the system. Requires the board to adopt a new fee schedule that eliminates the user fees charged to property not served by the system. Requires that the fees charged to remaining customers must be sufficient to: (1) meet the minimum amount required by law to operate the storm water system; and (2) pay any outstanding bonds or obligations of the system. Provides that if the new fee schedule will not result in an increase in the user fees charged to the system's remaining customers, the new fee schedule may be adopted by the board without a hearing and without the approval of the unit's fiscal body.

Effective: Upon passage; July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 76

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1.5-5-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) **Except as**
3 **provided in subsection (c)**, the ordinance adopting the provisions of
4 this chapter creates a special taxing district that includes the following:
5 (1) For a consolidated city, all of the territory of the county
6 containing the consolidated city.
7 (2) For all other municipalities, all territory within the corporate
8 boundaries of the municipality.
9 (3) For a county, all the territory in the county that is not located
10 in a municipality.
11 (b) **Except as provided in subsection (c)**, all the territory within the
12 district constitutes a special taxing district for the purpose of providing
13 for the collection and disposal of storm water of the district in a manner
14 that protects the public health and welfare and for the purpose of
15 levying special benefit taxes for purposes of storm water collection and
16 disposal. All territory in the district and all territory added to the
17 district is considered to have received a special benefit from the storm



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water collection and disposal facilities of the district equal to or greater than the special taxes imposed on the territory under this chapter in order to pay all or part of the costs of such facilities.

(c) This subsection applies to a lot, parcel of real property, or building that:

(1) does not discharge storm water into the storm water system of the unit served by the department; or

(2) is served by another storm water system not owned or operated by the unit served by the department;

regardless of whether the lot, parcel of real property, or building is located within the corporate boundaries of the unit. After June 30, 2006, a lot, parcel of real property, or building to which this subsection applies is not considered to benefit from the storm water system of the unit served by the department and shall not be included in the unit's special taxing district under this section.

SECTION 2. IC 8-1.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

(1) proceeds of special taxing district bonds of the storm water district;

(2) the assumption of liability incurred to construct the storm water system being acquired;

(3) service rates;

(4) revenue bonds; or

(5) any other available funds.

(b) Except as provided in section 7.5 of this chapter, the board, after holding a public hearing with notice given under IC 5-3-1 and obtaining the approval of the fiscal body of the unit served by the department, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system. The amount of the user fees must be the minimum amount necessary for the operation and maintenance of the storm water system. The assessment and collection of user fees under this subsection by the board of a county must also be approved by the county executive.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) The board shall use one (1) or more of the following factors to establish the fees authorized by this section:

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- (1) A flat charge for each lot, parcel of property, or building.
- (2) The amount of impervious surface on the property.
- (3) The number and size of storm water outlets on the property.
- (4) The amount, strength, or character of storm water discharged.
- (5) The existence of improvements on the property that address storm water quality and quantity issues.
- (6) The degree to which storm water discharged from the property affects water quality in the storm water district.
- (7) Any other factors the board considers necessary.

(e) The board may exercise reasonable discretion in adopting different schedules of fees or making classifications in schedules of fees based on:

- (1) variations in the costs, including capital expenditures, of furnishing services to various classes of users or to various locations;
- (2) variations in the number of users in various locations; and
- (3) whether the property is used primarily for residential, commercial, or agricultural purposes.

SECTION 3. IC 8-1.5-5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) After June 30, 2006, the board may not assess or collect user fees from any lot, parcel of real property, or building described in section 5(c) of this chapter. Not later than June 1, 2006, the board shall adopt a new fee schedule that eliminates the user fees charged to any lot, parcel of real property, or building described in section 5(c) of this chapter.**

(b) In adopting the new fee schedule required by subsection (a), the board shall ensure that the fees charged to remaining customers are sufficient to:

- (1) meet the minimum amount necessary to operate the storm water system, as required by section 7(b) of this chapter;**
- (2) pay any bonds or obligations outstanding against the storm water system; and**
- (3) meet the requirements set forth in section 25(b) of this chapter.**

(c) If the fee schedule adopted by the board under this section will not result in an increase in the user fees charged to the remaining customers of the system, the fee schedule is not subject to:

- (1) the hearing and notice requirements; or**
 - (2) the approval of the fiscal body of the unit;**
- under section 7(b) of this chapter.**

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1 **(d) The fee schedule adopted by the board under this section**
 2 **shall take effect on July 1, 2006.**

3 SECTION 4. IC 8-1.5-5-22 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. (a) To raise the
 5 necessary revenues to pay for the bonds issued and the interest on the
 6 bonds, the board:

7 (1) after approval by the fiscal body of the unit served by the
 8 department **and except as provided in subsection (d)**, shall levy
 9 a special benefit tax upon all the property of the storm water
 10 district in the amount necessary to meet and pay the principal of
 11 the bonds as they severally mature, together with all accruing
 12 interest; and

13 (2) shall certify the tax levied each year to the fiscal officer of the
 14 unit served by the department at the same time and in the same
 15 manner as other levies of the unit are certified.

16 The tax levied and certified shall be estimated and entered upon the tax
 17 duplicate and shall be collected and enforced in the same manner as
 18 state and county taxes are estimated, entered, and enforced.

19 (b) In fixing the amount of the necessary levy, the board:

20 (1) shall consider the amount of revenues derived by the board
 21 from the operation of the storm water system under its jurisdiction
 22 above the amount of revenues required to pay the cost of
 23 operation and maintenance of the storm water system; and

24 (2) may, in lieu of making the levy in this section, set aside by
 25 resolution a specific amount of the surplus revenues to be
 26 collected before maturity of the principal and interest of the bonds
 27 payable in the following calendar year.

28 (c) The special tax shall be deposited in the bond and interest
 29 redemption account.

30 **(d) After June 30, 2006, the board may not levy the special**
 31 **benefits tax described in this section upon any property described**
 32 **in section 5(c) of this chapter.**

33 SECTION 5. An emergency is declared for this act.

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